



City and County of San Francisco
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San Francisco Department of Public Health

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San Francisco Department of Public Health

*Policy & Procedure Detail**

Policy & Procedure Title: Compliance Program - Mission, Elements and Responsibilities (COM 7)	
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**All sections in table required. Updated as of 12/28/2022*

1. Purpose of Policy

2. **The purpose of this policy is to inform the San Francisco Department of Public Health (DPH) staff, contractors, and agents of the elements of the department’s compliance program. DPH maintains a compliance program in accordance with federal and state regulations and guidelines to address the complexity of properly and accurately documenting, coding, and billing for health care services. This policy applies to DPH workforce members including employees, contracted staff, medical personnel, interns, volunteers and other individuals representing or working at DPH who, on behalf of DPH, furnish or authorize the furnishing of Medicare or Medi-Cal services, perform billing or coding functions, or monitor the healthcare provided by DPH. These individuals, collectively referred to as DPH staff in this document, are expected to ensure a culture of compliance. Policy**

A. DPH Compliance Program Mission and Goals

The mission of the DPH Compliance Program is to ensure integrity in DPH clinical and business activities. This mission is carried out through OCPA that is dedicated to the following goals:

1. To promote an understanding of and compliance with Medicare, Medi-Cal, and other applicable federal and state laws and regulations;
2. To use education and training to improve compliance with billing and reimbursement rules and regulations; and
3. To work with DPH staff to integrate compliance into the daily operations of DPH at all levels.

DPH is committed to fully complying with federal and state laws and guidance for the operation of an effective compliance program.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

B. Elements of the DPH Compliance Program

The structure of the Compliance Program is laid out by the seven elements and DPH policies guide activities for detecting and preventing fraud, waste, and abuse.

Element 1: Leadership Commitment and Resource Allocation

Reporting Relationship: OCPA reports directly to the Director of Health and the DPH Executive Compliance Committee. The Executive Compliance Committee consists of the following DPH leadership: Director of Health, Chief Operating Officer, Chief Financial Officer, Director of Human Resources, Chief Integrity Officer, Director of San Francisco Health Network, and the Chief Executive Officers for Zuckerberg San Francisco General Hospital (ZSFG) and Laguna Honda Hospital and Rehabilitation Center (LHH). OCPA makes quarterly reports and obtains direction and feedback from the Committee. The Compliance Program also includes periodic reporting to the Health Commission through Compliance reports to the Joint Conference Committees.

Compliance Officer Role and Responsibilities:

DPH Compliance Officers are assigned to various service areas throughout the organization. The officers' responsibilities include the following:

- a. Conducting risk assessments to prioritize compliance monitoring and auditing activities;
- b. Directing compliance monitoring and auditing activities and presenting findings and recommendations to senior administrators and managers;
- c. Maintaining a system for staff to report compliance concerns in a confidential and/or anonymous manner, and promoting a culture of non-retaliation;
- d. Conducting investigations of reported compliance incidents and developing corrective action plans;
- e. Communicating with external auditors and regulatory bodies and coordinating responses to inquiries; and
- f. Developing the annual training program, as well as targeted training activities.

OCPA includes additional staff, such as Compliance/Privacy Investigators and Auditor who assist in carrying out a wide range of compliance responsibilities. These responsibilities include training, maintaining a mechanism for DPH staff to report compliance concerns, and responding to compliance issues for the entire department, including public health functions. In some instances, DPH staff from other departments are called upon to assist with investigating and resolving compliance matters.

Element 2: Development and Maintenance of the Compliance Program

An effective Compliance Program includes a department Code of Conduct, written policies and procedures, a coding compliance plan, and an annual work plan.

DPH Code of Conduct: The DPH Code of Conduct is the foundation of the department's compliance program. The purpose of the Code of Conduct is to provide direction to all DPH staff. All DPH staff are expected to be familiar with the federal, state, and local laws, regulations, or policies that apply

to their duties. Supervisors and Managers are responsible for overseeing the quality of their ' work. All employees must avoid policy violations and activities that may be construed as deceitful, false, or fraudulent. It is the responsibility of each staff member to seek assistance for clarification or application of a particular rule, law, or regulation. Violations of the Code of Conduct can result in discipline up to and including termination.

DPH Statement of Incompatible Activities: The DPH Statement of Incompatible Activities (SIA) provides guidance to DPH officers and employees and the Health Commission about the types of activities that are incompatible with public duties and/or may be prohibited. SIA is adopted under the provisions of the San Francisco Campaign and Governmental Conduct Code section 3.218.

Consultants and contractors are expected to abide by the terms of their contract(s) with the City and by all applicable laws and regulations, especially those related to privacy, billing, coding, and documentation.

Written Policies and Procedures: DPH has written policies and procedures that address the Compliance/Privacy Hotline, Non-Retaliation, False Claims Act education as required by the Deficit Reduction Act (DRA) of 2005, and guides to government interviews and investigations.

Coding Compliance Plan: The department has a written Coding Compliance Plan developed to foster the correct application of the coding structure to diagnosis and procedures and to guard against upcoding.

Annual Compliance Work Plan: Each year OCPA develops a Compliance Work Plan, detailing the priority work tasks for the following year. It is reviewed and approved by the Director of Health and the DPH Executive Compliance Committee.

The Work Plan is developed based on risk assessment results and focuses on DPH activities that address the following:

- a. Training on documentation, coding, and billing;
- b. Auditing medical records and conducting chart reviews;
- c. Software and hardware upgrades that improve documentation, coding, and billing accuracy;
- d. Improvement to forms, such as encounter forms and requisitions, that facilitate more accurate documentation, coding, and billing;
- e. Licensure verification;
- f. Documentation efforts such as “Do Not Use Abbreviations” and “Write Legibly”;
- g. Efforts to better understanding billing requirements and regulations;
- h. Systems to minimize, detect, or correct billing and coding errors;
- i. Regulatory changes and major initiatives, such as Health Care Reform.

An assessment of the Compliance Program and Work Plan is performed by OCPA at the end of each calendar year and presented to the Director of Health and the DPH Central Compliance Committee for approval.

Element 3: Training and Education

DPH requires annual compliance training for DPH staff. OCPA updates the training materials annually to reflect changes in regulations and to address specific areas of risk. In addition to changes in regulations and risk, the annual training covers the DPH Code of Conduct and Statement of Incompatible Activities.

DPH Training and Education Tools: DPH incorporates various training methods to assist DPH staff in meeting the annual compliance training requirement. These methods include computer based training modules and live trainings.

Element 4: Lines of Communication to Report Compliance Concerns

DPH provides various methods for DPH staff to communicate compliance concerns or to report suspected healthcare fraud, waste and abuse, with the option of remaining anonymous. The methods are briefly described below.

Compliance Hotline: OCPA maintains a toll-free Hotline so that DPH staff may report concerns regarding non-compliance with federal, state or local laws in a confidential manner. These calls may also be made anonymously. DPH policy protects DPH staff who report compliance concerns from any form of discrimination, harassment or retaliation within DPH. Posters advertising the Hotline number are displayed throughout DPH. Additionally, the Office coordinates with the Office of the Controller, Whistleblower Program when complaints are submitted through the Citywide Whistleblower reporting system.

Formal Communication: Every year OCPA prepares a calendar to ensure that face-to-face communication occurs with each of the divisions within DPH that bill Medicare, Medi-Cal and other third party payers. This is generally done through regular meetings with the executive staff at ZSFG, Ambulatory Care, LHH, and Behavioral Health Services, and other DPH service areas. These meetings are referred to as Compliance Steering Committees and will take place at least quarterly. At these meetings, OCPA may review specific investigations or areas of concern, recent developments or new regulations, status of the Work Plan, and answer questions.

Compliance Website: OCPA also maintains a website which can be accessed through the DPH public website, ZSFG and LHH intranet sites. The website includes the DPH Code of Conduct, DPH Statement of Incompatible Activities, and relevant DPH Compliance and Privacy Policies.

E-mail: OCPA maintains a general compliance e-mail address, compliance.privacy@sfdph.org, as well as division-specific compliance e-mail addresses to facilitate communication with staff.

Element 5: Prompt Response to Detected Offenses including Development of Corrective Action Plans

Compliance concerns are generally discovered by OCPA during the auditing and monitoring process; self-reported by DPH staff; or reported through the Hotline. It is the responsibility of OCPA to take the lead in assessing actual or possible offenses, pulling the right group of people together, determining the extent of the problem, and developing a corrective action plan. If appropriate, the plan may include recommendations for disciplinary action, refunding of monies, or self-disclosure. It is also the responsibility of OCPA to ensure that information is communicated to the Director of Health, the Deputy City Attorney, and the appropriate members of the DPH Executive Compliance Committee in a timely manner.

Element 6: Standards Enforcement Through Well Publicized Disciplinary Guidelines

In addition to ongoing efforts by OCPA to generate and increase awareness of compliance issues, DPH employees regularly come into contact with compliance standards and disciplinary guidelines through the Civil Service or City and County of San Francisco Personnel System. DPH strives to incorporate compliance elements (such as annual training, maintaining a current license or certification, and enrolling in Medicare) into its employee recruiting, hiring, orienting and performance appraisal process. At ZSFG and LHH, physicians, dentists, podiatrists, clinical psychologists and affiliated professionals are also subject to ethical and professional standards set forth in the Medical Staff Bylaws for each hospital. These Bylaws clearly delineate the consequences for failing to meet these standards.

Element 7: Internal Monitoring and Auditing

Each year OCPA develops an audit schedule and audit tools. These audits and reviews are used to proactively identify issues and to give feedback to providers, coding and billing departments. Audits and reviews are also conducted when there are concerns regarding potential compliance violations.

Annual compliance training is verified through coordination between Human Resources, OCPA, and the use of the city's Electronic Learning Management software. Individuals who are found to have not completed the training will have access to sensitive systems shut off. Additionally, credentialing verification is performed every two years for physicians, dentists, podiatrists, psychologists, and affiliated professionals at ZSFG and LHH. Finally, providers who submit bills for payment are screened monthly against the Office of Inspector General List of Excluded Individuals/Entities.

C. Federal and State False Claim Acts

All DPH staff should be familiar with the Federal and State False Claim Acts, including the qui tam provisions and other applicable laws and regulations.

Federal False Claims Act (FCA 31 U.S.C. Section 3729(a)):

The FCA authorizes federal prosecutors to file a civil action against any person or entity that knowingly files a false claim with a federal healthcare program, including the Medicare or Medicaid programs. The FCA applies to providers, beneficiaries, and health plans doing business with the Federal Government as well as billing companies, contractors, and other persons or entities connected with the submission of claims to the government. The government can use the FCA against both organizations and individuals who commit billing fraud.

The FCA applies to any person who does any of the following:

1. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to an officer or employee of the United States government.
2. Knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government.
3. Conspires to defraud the government by getting a false or fraudulent claim allowed or paid.
4. Knowingly makes, uses or causes to be made or used, a false record or statement or to conceal, avoid, or decrease an obligation to pay or transmit property to the government.

A party that commits any prohibited act under the FCA is liable to the government for a civil monetary penalty, plus **three times** the amount of the damages the government sustains. Parties that submit false claims may also be subject to criminal prosecution, other monetary penalties and exclusion from federal and state healthcare programs (Medicare and Medi-Cal).

Qui Tam Actions:

The FCA authorizes what is known as qui tam actions (commonly referred to as “whistleblower” actions). The FCA’s qui tam provision permits private persons to: (1) sue, on behalf of the government, persons or entities who knowingly have presented the government with false or fraudulent claims; and (2) share in any proceeds ultimately recovered as a result of the suit.

The FCA includes provisions to discourage employers from retaliating against employees for initiating qui tam lawsuits. Any employee who is terminated, demoted, suspended or in any way discriminated against because of acts in support of an action under the FCA has a right to sue the employer for reinstatement, back pay and other damages.

California False Claims Act (California Government Code Sections 12650-555)

In addition to the federal FCA, California has its own False Claims Act that is focused on claims for payment submitted to the state and its agencies. The California False Claims Act is very similar to the FCA in terms of the types of acts that give rise to liability. Like the FCA, the California False Claims Act allows private parties to sue on behalf of the state as qui tam plaintiffs.

3. Definitions

- A. Centers for Medicare and Medicaid Services (CMS) – CMS administers the Medicare program and works in partnership with state governments to administer the Medicaid program. CMS was formerly known as the Health Care Financing Administration (HCFA).
- B. Fraud (per CMS) - Knowingly and willfully executing, or attempting to execute a scheme or artifice to defraud any health care benefit program or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.
- C. Abuse (per CMS) - Actions that may, directly or indirectly, result in unnecessary costs to the Medicare or Medicaid program or the improper payment for services that fail to meet professionally recognized standards of care or that are medically unnecessary.
- D. Waste (per Controller’s Office) - The needless, careless, or extravagant expenditure of City funds, incurring of unnecessary expenses or mismanagement of City resources or property. Waste does not necessarily involve private use or personal gain, but almost always signifies poor management decisions, practices or controls.
- E. Department of Justice (DOJ) – DOJ is a federal law enforcement agency. One of DOJ’s functions is to coordinate federal, state, and local law enforcement activities with respect to health care fraud and abuse.

- F. Office of Inspector General (OIG) - The OIG is mandated to protect the integrity of Department of Health and Human Services programs, as well as the health and welfare of the beneficiaries of those programs. The OIG's duties are carried out through a nationwide network of audits, investigations, and inspections.
- G. Coding/Documentation - The purpose of coding and documentation is to accurately reflect clinical effort, demonstrate medical necessity and obtain appropriate reimbursement. There are two sets of nationally recognized codes: Healthcare Common Procedural Coding System and International Classification of Diseases.
- H. Upcoding – Consistently using procedure/revenue codes that describe more extensive services than those actually performed. Consistent upcoding may be found to constitute fraud.
- I. Healthcare Common Procedural Coding System (HCPCS) – HCPCS was established to standardize medical services, supplies, and equipment. There are two levels of HCPCS codes.

H1. HCPCS Level 1 or Current Procedural Terminology (CPT) Codes: The five digit codes are used for outpatient services and are divided into six categories. The categories are a) Evaluation and Management (E&M); b) Anesthesia; c) Surgery; d) Radiology; e) Pathology and Laboratory; and f) Medicine.

H2. HCPCS Level II Codes: Level II HCPCS codes are a mixture of durable medical equipment (DME) codes, dentistry codes, Medi-Cal surgical supply codes, alcohol and drug treatment codes, and other material and services codes.

- J. Modifiers - Modifiers are two digit numbers that can be added to a CPT code to provide more specific information on some aspect of the service provided.
- K. International Classification of Diseases, Tenth Edition, Clinical Modification/Procedure Coding System (ICD-10-CM/CPS) Codes – ICD-10-CM/CPS codes consist of three to seven alphanumeric characters describing a particular illness, medical condition or disease, signs and symptoms and clinical procedures. They can also reflect preventative circumstances. ICD-10CM is the code set for diagnosis coding and is used for all healthcare settings in the United States whereas ICD-10PCS is used in hospital settings for inpatient procedure coding.
- L. The Diagnostic and Statistical Manual of Mental Disorders (DSM) – DSM is published by the American Psychiatric Association. The DSM provides standard criteria for the classification of mental health disorders. DSM diagnoses are linked to diagnostic codes listed in the International Classification of Diseases (ICD) to report diagnosis to insurers for reimbursement and to public health authorities for causes of illness and death. DSM-5 is the current version used by clinicians.

4. Procedures

DPH staff are expected to carry out their duties in accordance with all federal and state regulations. It is the responsibility of DPH staff to be familiar with the federal and state False Claims Acts, including qui tam provisions and other applicable laws and regulations.

DPH staff are expected to report concerns related to the compliance program to their supervisors, and/or other appropriate parties. DPH staff should use the toll-free Compliance/Privacy Hotline **(855-729-6040)** if they prefer to report concerns in a confidential and anonymous manner.

5. References/Attachments

- A. Relevant Federal and State Compliance Related Statutes